

2002 LEGISLATIVE SUMMARY

HB 4S1 Boating Under the Influence Provisions:

Combines driving under the influence provisions with boating under the influence provisions in Utah law. Establishes moving boating violations and a minimum age for motorboat operations.

HB 16 Blood and Breath Alcohol Testing:

Removes the two-hour limitation on blood and breath alcohol tests taken in cases of driving, flying, and boating under the influence. Makes the automobile homicide statute consistent with the DUI statute concerning blood and breath alcohol concentration.

HB 17 Multiple DUI Offenses: Amends the definition of prior conviction to include: driving under the influence of drugs or a combination of alcohol and other drugs, driving with any measurable controlled substance that is taken illegally, and original DUI-related offenses that are reduced by the court.

HB 18 Court Records of DUI Cases: Directs state courts to maintain data necessary to allow sentencing and enhancement decisions to be made in accordance with DUI and reckless driving offenses.

HB 35 Expungement of Juvenile Records:

Establishes minimum age of 18 for petitioners of juvenile expungement. Creates procedures for informing victims of petitions for expungement and allows victims to testify at expungement hearings. Prohibits expungement of adjudications of aggravated murder and murder.

HB 39S2 Statute of Limitations Amendments:

Provides that child abuse homicide, aggravated kidnapping, and child kidnapping are not subject to statutes of limitations for prosecution.

HB 45 Prisoner Escape Amendment: Clarifies that a prisoner who obtains authorization to leave by deceit, fraud, or other artifice is not lawfully authorized to leave.

HB 72 Penalty for Misuse of Lawful Substance:

Creates the crime of abuse of nitrous oxide, a class A misdemeanor. Provides exceptions for medical uses of nitrous oxide.

HB 73 Capital Felony Sentencing Procedures:

Specifies that if the defendant is sentenced to more than one term of life in prison with or without the possibility of parole, or to a sentence of life in prison with or without parole and additional prison terms for other offenses, the judge determines whether the sentences shall run consecutively or concurrently.

HB 77 Criminal Sentencing - Mitigation

Amendments: Lists mental retardation of the defendant as a mitigating circumstance that may be considered by the jury in determining whether the death penalty will be imposed.

HB 99S1 Consecutive Sentencing: Requires the court to state the following on the judgment and commitment: if sentences imposed for multiple convictions are to run concurrently or consecutively to each other; and if the sentences before the court are to run concurrently or consecutively with any other sentences the defendant is already serving. Adds the number of victims to the list of factors to be considered by the court in determining whether to impose concurrent or consecutive sentences. Clarifies that if a judgment and commitment does not clearly state whether the sentences are to be concurrent or consecutive, the Board of Pardons is to send the order to the court for clarification.

HB 101S1 Racial Profiling: Requires law enforcement agencies to adopt a written policy prohibiting stopping, detaining, or searching any person when the action is motivated solely by considerations of race, color, ethnicity, age, or gender. Requires race information to be included on driver license applications and state ID applications between July 1, 2002 and July 1, 2007. Requires DPS to maintain a database to monitor each driver license or state ID card status check. Provides CCJJ with access to this database to evaluate the data.

HB 125 Endangerment of Child or Elder Person with Controlled Substance or Precursor: Clarifies the elements and definitions of endangerment of a child or elder adult. Establishes an affirmative defense if the controlled substance was provided by lawful prescription and administered in accordance with prescription instructions.

HB 143 Restrictions on Sexually Explicit Email:

Creates requirements for persons who send unsolicited sexually explicit email. A violation is a class B misdemeanor.

HB 154S2 Expansion of DNA Database: Requires a DNA specimen to be collected upon conviction of any felony or burglary offense. Requires that a DNA specimen be collected from juveniles age 14 or older adjudicated delinquent for one of the above offenses. Requires the offender to pay \$75 for the cost of obtaining the DNA specimen and places this fee as the next priority after restitution owed to a victim. Includes saliva as an acceptable DNA specimen.

HB 187 Driver License Fraud Amendments:

Amends the prohibited uses of driver license to clearly distinguish the class C misdemeanor violations from the third degree felony violations.

HB 224 Giving False Information to Police

Officer: Raises the penalty for giving false information to a peace officer from a class C misdemeanor to a class A misdemeanor if the person gives the name, birth date, or address of another person with the intent of leading the peace officer to believe that the person is another actual person.

HB 235 Emergency Vehicle Amendments: States that when approaching stationary emergency vehicles on highways a driver must reduce speed, provide as much space as practical to the emergency vehicle, and change to a lane not adjacent to the emergency vehicle if practical.

HB 237 Spouse Abuse Amendments: Requires courts to order domestic violence defendants to complete a domestic violence treatment program

unless the court finds that there is no licensed program reasonably available.

HB 245 Amendments to Sex Offender Registry:

Requires sex offenders to provide information on institutions of higher education they are attending or at which they are employed.

HB 283S1 Antiterrorism Amendments: Creates offenses regarding the manufacture, possession, sale, use or attempted use of a weapon of mass destruction (a first degree felony) or a hoax weapon of mass destruction (a second degree felony). Provides exemptions for members of the armed forces, government agencies, and private entities who are acting lawfully pursuant to a license.

HB 290 Affidavit of Impecuniosity Amendments:

Requires a defendant claiming indigency to inform the court of any material change in circumstances that may affect the determination of his eligibility for indigency. A violation is a class B misdemeanor.

HB 303 Expungement of DUI Convictions:

Extends the waiting period for expungement of alcohol or drug-related traffic offenses from six years to ten years.

HB 319S1 Jail Reimbursement Amendments:

Separates the funding for jail reimbursement and jail contracting. Provides that the legislature shall fund the total jail reimbursement core inmate incarceration costs at the rate of 70%. Establishes a committee to negotiate an annual reimbursement rate applicable to all counties. Establishes a sunset date of July 1, 2005.

HB 336S1 Use of Force, Including Deadly Force, in Defense of Property:

States when a person may use force likely to cause death or serious bodily injury in defense of real property, other than the person's habitation. States that a person acting under those conditions is presumed for purposes of both civil and criminal cases to have acted reasonably.

SB 9 Amendments to DUI: Increases the required hours in a compensatory-service work program when imposed as an alternative to jail on a first DUI

conviction from 24 to 48. States that if probation is ordered for defendants convicted of a felony DUI offense, the probation shall be supervised. Requires the court to notify DLD if a person fails to complete all court ordered hours of work in compensatory-service work program.

SB 11 Prohibiting Intimacy with Youth Receiving State Services:

Establishes criminal penalties for certain state employees and contractors who engage in sexual relations with youth receiving state services. Penalties range from class A misdemeanor to second degree felony depending on the age of the youth and the type of conduct.

SB 12 Transfer of Youth Services Oversight:

Transfers oversight of youth services from DCFS to the Division of Youth Corrections.

SB 22 Attempted Murder Amendments:

Establishes the penalty for attempted murder as a first degree felony punishable by a prison term of 3 years to life if the victim or another suffers serious bodily injury in the course of the actor's commission of the offense.

SB 26 Serious Youth Offender Amendments:

States that a felony committed by a minor after previous commitment to a secure facility does not fall under the exclusive original jurisdiction of the district court if the offense is committed in a secure facility. Clarifies that the district court retains jurisdiction over a minor transferred to the district court under serious youth offender or certification if the minor pleads guilty to or is found guilty of any of the charges filed or any other offense arising from the same criminal episode.

SB 27 Amendments to Guilty and Mentally Ill:

Specifies that the plea "guilty and mentally ill" is available only if the offender was mentally ill at the time of the offense. Establishes procedures whereby jurors consider the issue of mental illness as a special verdict. States that the standard of proof in

determining whether the defendant was mentally ill is a preponderance of the evidence.

SB 76 Domestic Violence in Presence of Child Amendments:

Eliminates the requirement that the defendant commit one or more prior acts of domestic violence in the presence of a child before being guilty of that crime. Changes the penalty for this crime from a class A misdemeanor to a class B misdemeanor. Adds the above crime of child abuse to the definition of domestic violence.

SB 130 Youth Court Amendments: Amends the definition of youth to include persons 18 years of age who are still attending high school. Permits youth courts to exercise authority over youth who are under the jurisdiction of the juvenile court if the offense before the youth court is not a law violation and the referring agency has notified the Juvenile Court of the referral.

SB 178 Protecting the Unborn Child: Provides that a person may be found guilty of criminal homicide for the killing of an unborn child at any stage of its development. Exempts lawful abortions.

**FOR MORE INFORMATION, INCLUDING THE FULL
TEXT OF BILLS, VISIT THE LEGISLATURE'S
WEB SITE: <http://www.le.state.ut.us>**

2002 GENERAL SESSION

SUMMARY OF NEW AND AMENDED LAWS

**PREPARED FOR
UTAH COMMISSION
ON CRIMINAL AND
JUVENILE JUSTICE**

